

IN THE CIRCUIT COURT OF ST. LOUIS CITY
STATE OF MISSOURI

STATE OF MISSOURI ex rel.)	
JEREMIAH W. (JAY) NIXON,)	
Attorney General,)	
)	
Plaintiff,)	
)	Cause No.
vs.)	
)	Division
CRITIQUE LEGAL SERVICES L.L.C.)	
Serve: Registered Agent)	
Beverly J. Holmes)	
4144 Lindell)	
St. Louis, Missouri)	
)	
and CRITIQUE SERVICES L.L.C.)	
Serve: Registered Agent)	
Beverly J. Holmes)	
4144 Lindell)	
St. Louis, Missouri)	
)	
and BEVERLY J. HOLMES)	
Serve 4009 Westminster)	
St. Louis, Mo.)	
)	
and)	
)	
RENEE MAYWEATHER)	
Serve: 4711 Thrush)	
St. Louis, Mo.)	
)	
Defendants.)	

PETITION FOR PERMANENT INJUNCTION, PRELIMINARY INJUNCTION,
TEMPORARY RESTRAINING ORDER AND OTHER RELIEF
AGAINST DEFENDANT BEVERLY HOLMES, RENEE MAYWEATHER, CRITIQUE
LEGAL SERVICES L.L.C. AND CRITIQUE SERVICES L.L.C.

COMES NOW Plaintiff State of Missouri, at the relation of Attorney General Jeremiah W. (Jay) Nixon, by and through counsel, and for its Petition for Permanent Injunction and Other Relief states as follows:

PARTIES

1. Jeremiah W. ("Jay") Nixon is the duly elected, qualified and acting Attorney General of the State of Missouri and brings this action in his official capacity pursuant to §§407.020 and 407.100, RSMo 1994.¹

2. Beverly J. Holmes is an individual residing in the City of St. Louis at 4009 Westminster.

3. Critique Legal Services L.L.C. is a Missouri Limited Liability Corporation not in good standing with its principal place of business at 4144 Lindell Suite 100.

4. Renee Mayweather is an individual residing in the City of St. Louis at 4711 Thrush.

5. Critique Services is a Missouri Limited Liability Corporation with its principal place of business at 4711 Lindell.

6. At all times herein mentioned Mayweather and Holmes acted as agents, servants, and employees of the other and at all times acted within the course of and scope of their respective agency.

7. At all times herein mentioned Holmes and Mayweather acted as agents of Critique Legal Services L.L.C. and Critique Services L.L.C. within the course and scope of their agency and Critique Legal Services L.L.C. and Critique Services L.L.C. acted as agents for Beverly Holmes within the course and scope of that agency. In addition, Holmes so dominated, controlled, and manipulated the entities for purposes of illegality and fraud that the entities should be disregarded.

¹All references to statutes are to Missouri Revised Statutes 1994, unless otherwise stated.

JURISDICTION AND VENUE

8. Plaintiff hereby incorporates by this reference the allegations set forth in paragraphs 1, 2, 3, 4, 5, 6 and 7 above, as though fully set forth herein.

9. The Circuit Court of St. Louis County has subject matter jurisdiction of this action pursuant to §§ 407.020 and 407.100 as set forth more fully in paragraphs 8 through 25 below.

10. Venue is appropriate in the Circuit Court of St. Louis City in that the defendants have advertised and/or sold legal services to consumers in St. Louis City.

FACTS

11. Plaintiff hereby incorporates by this reference the allegations set forth in paragraphs 1 through 10 above, as though fully set forth herein.

12. Defendants are engaged in the advertisement, sale and provision of legal services for bankruptcies throughout the City and County of St. Louis. Attached hereto as Exhibit A is a true and correct copy of advertisements handed out to Critique consumers.

13. None of the defendants is authorized to practice law in the State of Missouri or in the United States District Court for the Eastern District of Missouri.

14. Defendants have practiced law in that they have advertised bankruptcies for \$99.00 and have prepared for compensation Petitions For Relief under Chapters 7 and 13 of Title 11, and the accompanying schedules, all without the supervision of a qualified licensed attorney in violation of Local Rule Eastern District of Missouri 83-12.01 and 484.020. Upon information and belief defendants have prepared and filed bankruptcy pleadings and schedules in hundreds of cases in 2002 and 2003.

15. Defendants have a pattern and practice of misrepresenting to consumers that a qualified, licensed attorney will prepare and supervise the preparation of the pleadings and appear in Court when defendants know that no such attorney exists, and make the misrepresentations with knowledge of their falsity or reckless disregard for the truth for the express purpose of inducing consumers to hire defendants.

16. Consumers have suffered harm in that attorneys failed to appear at court hearings and creditor meetings and pleadings and schedules have been either poorly prepared or not prepared at all and the consumers Petitions for relief under Bankruptcy Code have been dismissed. Consumer have been damaged in that on many occasions the wrong relief was sought, for example a Chapter 13 Petition was filed instead of a Chapter 7 for no other reason than the extra attorneys fees generated. In many instances fees were collected and no services of any kind performed, or if performed were delayed many months. Finally defendants failed to communicate in a timely fashion, if at all, significant case developments and would fail to return calls from consumers for weeks, if at all.

MERCHANDISING PRACTICES ACT VIOLATIONS

17. Plaintiff hereby incorporates by this reference all the allegations set forth in paragraphs 1 through 16 above, as though fully set forth herein.

18. Section 407.020 provides, in pertinent part:

The act, use, or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in § 407.453, in or from the State of Missouri, is declared to be an unlawful practice.

Section 407.100 provides:

1. Whenever it appears to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, he may seek and obtain, in an action in a circuit court, an injunction prohibiting such person from continuing such methods, acts, uses, practices, or solicitations, or any combination thereof, or engaging therein, or doing anything in furtherance thereof.
2. In any action under subsection 1 of this section, and pursuant to the provisions of the Missouri Rules of Civil Procedure, the attorney general may seek and obtain temporary restraining orders, preliminary injunctions, temporary receivers, and the sequestering of any funds or accounts if the court finds that funds or property may be hidden or removed from the state or that such orders or injunctions are otherwise necessary.
3. If the court finds that the person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, it may make such orders or judgments as may be necessary to prevent such person from employing or continuing to employ, or to prevent the recurrence of, any prohibited methods, acts, uses, practices or solicitations, or any combination thereof, declared to be unlawful by this chapter.
4. The court in its discretion, may enter an order of restitution, payable to the state, as may be necessary to restore to any person who has suffered any ascertainable loss, including but not limited to, any moneys or property, real or personal, which may have been acquired by means of any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter. It shall be the duty of the attorney general to distribute such funds to those persons injured.
5. The court, in its discretion, may appoint a receiver to insure the conformance to any orders issued under subsection 3 of this section or to insure the payment of any damages ordered under subsection 4 of this section.

6. The court may award to the state a civil penalty of not more than one thousand dollars per violation; except that, if the person who would be liable for such penalty shows, by a preponderance of the evidence, that a violation resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, no civil penalties shall be imposed.

7. Any action under this section may be brought in the county in which the defendant resides, where the violation alleged to have been committed occurred, or where the defendant has his principal place of business.

19. "Advertisement" is defined by § 407.010(1) as "the attempt by publication, dissemination, solicitation, circulation, or any other means to induce, directly or indirectly, any person to enter into any obligation or acquire any title or interest in any merchandise."

20. "Merchandise" is defined by § 407.010(4) as "any objects, wares, goods, commodities, intangibles, real estate or services."

21. "Sale" is defined by § 407.010(6) as "any sale, lease, offer for sale or lease, or attempt to sell or lease merchandise for cash or credit."

22. "Trade or Commerce" is defined by § 407.010(7) as "the advertising, offering for sale, sale, or distribution, or any combination thereof, of any services and any property, tangible or intangible, real personal, or mixed and any other article, commodity, or thing of value wherever situated. The terms 'trade' and 'commerce' include any trade or commerce directly or indirectly affecting the people of this state."

23. 15 CSR § 60-8.020 defines "unfair practice" as follows:

- (1) An unfair practice is any practice which -
 - (A) Either -

1. Offends any public policy as it has been established by the Constitution, statutes or common law of this state, or by the Federal Trade Commission, or its interpretive decisions; or

2. Is unethical, oppressive or unscrupulous; and

(B) Presents a risk of, or causes, substantial injury to consumers.

(2) Proof of deception, fraud or misrepresentation is not required to prove unfair practices as used in § 407.020.1, RSMo.

24. 15 CSR § 60-8.090 defines “Illegal Conduct” as follows:

(1) It is an unfair practice for any person in connection with the advertisement or sale of merchandise to engage in any method, use or practice which --

(A) Violates state or federal law intended to protect the public; and

(B) Presents a risk of, or causes substantial injury to consumers.

25. 15 CSR § 60-9.020 defines “Deception” as follows:

(1) Deception is any method, act, use, practice, advertisement or solicitation that has the tendency or capacity to mislead, deceive or cheat, or that tends to creates a false impression.

26. 15 CSR § 60-9.030 defines “Deceptive Format” as follows:

(1) It is deception for any person in an advertisement or sales presentation to use any format which because of its overall appearance has the tendency or capacity to mislead consumers.

COUNT I

27. Plaintiff hereby incorporates by this reference all the allegations set forth in Paragraphs 1 through 26 above, as though fully set forth herein.

28. Defendants, jointly and severally, have violated § 407.020 by engaging in deception and by misrepresenting in print advertisements and orally that attorneys will

represent Critique consumers in the preparation of bankruptcy pleadings, schedules, and court appearances.

COUNT II

29. Plaintiff hereby incorporates by this reference all the allegations set forth in Paragraphs 1 through 28 above, as though fully set forth herein.

30. Defendants have violated § 407.020 by committing the unfair practice, as defined by regulation of practicing law without a license

COUNT III

31. Plaintiff hereby incorporates by this reference all the allegations set forth in Paragraphs 1 through 30 above, as though fully set forth herein.

32. Defendants Magellan and Crystal Care, jointly and severally, have violated § 407.020 by misrepresenting in advertisements that bankruptcy services will be provided for a flat fee of \$99.00.

COUNT IV

33. Plaintiff hereby incorporates by this reference all the allegations set forth in Paragraphs 1 through 32 above, as though fully set forth herein.

34. Defendants, jointly and severally, have violated § 407.020 by employing deception in representing that Critique provides bankruptcy legal services.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, Plaintiff prays this Court to order the following relief:

1. An Order of this Court finding that Defendants have violated § 407.020 and 15 CSR §§ 60-8.020, .090 by engaging in the acts, methods or practices set forth in paragraphs 27 through 34 above.
2. A Preliminary Injunction, issued pursuant to § 407.100, prohibiting Defendants from engaging in the acts, methods or practices described in paragraphs 27 through 34 inclusive, above.
3. A Permanent Injunction, issued pursuant to § 407.100, prohibiting Defendants from engaging in the acts, methods or practices described in paragraphs 27 through 34, inclusive.
4. An Order of this Court finding Defendants liable to pay restitution to those consumers who have suffered an ascertainable loss as a result of Defendants' unlawful practices.
5. An Order of this Court finding Defendants liable to pay a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each violation of § 407.020.
6. An Order of this court finding Defendants Liable to pay Plaintiff the costs of investigation and prosecution of this action pursuant to § 407.130.
7. An Order of this court requiring Defendants to pay all court costs incurred in this cause of action.

8. Any and all such further relief as this Court deems just and equitable in this cause of action.

Respectfully Submitted,

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